

Proposed Amendment to T.R. 4.15

Rule 4.15. Summons: Proof of Service--Return--Amendments--Defects

(A) Return--Form. The person making service shall promptly make his return upon or attach it to a copy of the summons which shall be delivered to the clerk. The return shall be signed by the person making it, and shall include ~~a statement~~:

(1) a statement that service was made upon the defendant in person ~~as required by law,~~
or if service was made upon a person other than the defendant, a statement as to the name
or other identification of the person accepting service, and the time, place, and manner of
service~~thereof~~;

(2) if service was not made, the particular manner in which it was thwarted in terms of fact or in terms of law;

(3) such other information as is expressly required by these rules.

(B) Return and affidavits as evidence. The return, along with the summons to which it is attached or is a part, the praecipe for summons, affidavits furnished with the summons or praecipe for summons, and all other affidavits permitted by these rules shall be filed by the clerk with the pleadings and other papers in the case and thereupon shall become a part of the record, and have such evidentiary effect as is now provided by law. Copies of such record shall be admissible in all actions and proceedings and may be entered in any public records when certified over the signature of the clerk or his deputy and the clerk's seal.

(C) Proof of filing and issuance dates. The clerk shall enter a filing date upon every praecipe, pleading, return, summons, affidavit or other paper filed with or entered of record by him. The clerk shall also enter an issuance date upon any summons issued, mailed or delivered by him, or other communication served or transmitted by him under these rules. Such filing or issuance date shall constitute evidence of the date of filing or issuance without further authentication when entered in the court records, or when the paper or a copy thereof is otherwise properly offered or admitted into evidence.

(D) Admission of service. A written admission stating the date and place of service, signed by the person being served, may be filed with the clerk who shall file it with the pleadings. Such admission shall become a part of the record, constitute evidence of proper service, and shall be allowed as evidence in any action or proceeding.

(E) Amendment. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended unless it clearly appears that material prejudice would result to the substantial rights of the person against whom the process is issued.

(F) Defects in summons. No summons or the service thereof shall be set aside or be adjudged insufficient when either is reasonably calculated to inform the person to be served that an action has been instituted against him, the name of the court, and the time within which he is required to respond.